1949.

File No. Court Fees II 49/(R)

Legal Department

B BRANCH

Subject:—

Rules under the Court Fees Act 1870

File No. Court Fees II/49(R)

214-B

1C

Legal Department

Para. 2 of R.D.note at page 92 ante.- It will not be possible for Government to appoint the Assistant Superintendent of Stamps or any officer to perform the functions of a Collector under the Court-fees Act, 1870 by mere executive instructions. It will be necessary to undertake legislation for the purpose. A requisite draft Bill is sent herewith.

Para. 4 of R.D. note.- In place of the R.D. draft at pages 98 to 107 ante revised draft rules are sent herewith.

Section 19N(3) empowers Government to make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3) . The powers conferred by this section to make rules are limited in scope and no duties can be cast under these rules on the Court or the petitioner which are not warranted by the Act. Only the draft rules which are covered by section 19N(3) have been retained. They have re-arranged in a logical sequence and some of the draft rules have been deleted to avoid repetiti--

R.D. draft rule 2. - The definitions of the expressions "Court", "Collector" and "Authority" are unnecessary and have been delated.

R.D. draft rules 3 and 4 .- Rules cannot be made under section 19N (3) requiring the Courts to send to the Collectors copies of the Schedule of assets submitted by the petitioners. Presumably such arrangement is already made. If not, the High Court will have to be requested to issue the necessary instructions inthe matter . R.D. draft rule 3 and the first part of R.D. draft rule 4 have been deleted.

R.D. draft rule5.- The latter part of the draft rule has been revised and transposed as revised draft rule 15.

R.D. draft rule 7.-The draft rule has been transposed as revised draft rule 19.

R.D. draft rule 9. As stated above under the proposed rules no obligation can be imposed on the petitioner which are not warranted by the Act. This rule and other similar rules have therefore been revised to indicate to the Collectors what

information they should obtain from the petitioners.

R.D. draft rules 17, 20 and 21 .- These rules require the petitioner to give an undertaking to the Court to pay additional fees etc. Such rules would not be covered by section 19H(8) and have therefore been deleted.

R.D. draft rules 26 and 27 .- These rules are outside the scope of the rule making power and have therefore been deleted

Sd/- J.R. Dhurandar

4-2

Additional Secretary to Government.

U.R. to R.D. No. 1412 , dated the 5th February 1949.

V.M.D./1-6
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